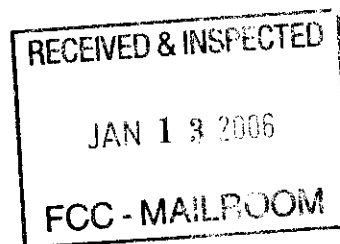
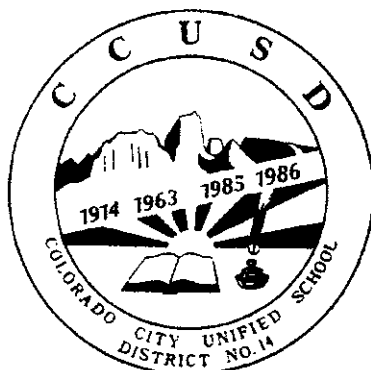


System: 165.135.210.45 sec fax,sec, 4181087 --- Time Printed: 01-17-2006 09:23:35

From: 9288752483
Media: Fax 15 pages
Subject:
Status:
Received: 09:25 PM 01/13/06



No. of Copies rec'd 0
List A B C D E



Colorado City Unified School District #14
P O Box 309 - 325 North Cottonwood Street
Colorado City, AZ 86021
tel. 928-875-9000
fax 928-875-9099

www.ccusd.net
Every Child Can

To: Federal Communications Com. From: Paul Timpson

Fax: 202-418-0187

Pages: 15

Phone:

Date: 1/13/2006

Re: Request for Review

CC:

RECEIVED & INSPECTED

JAN 13 2006

FCC - MAILROOM

Comments:

Please find enclosed documents for review concerning ERATE Appeal

14 pages

CC Docket No. 96-45

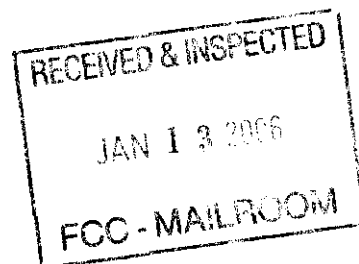
CC Docket No. 02-6

No. of Copies rec'd 0
List A B C D E

Colorado City Unified School District No.14

325 N Cottonwood Street / P. O. Box 309
Colorado City, Arizona 86021-0309

Telephone (928) 875 9000 / Fax (928) 875 9099

**CC Docket No. 02-6
Request for Review**

January 13, 2006

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Dear Sir or Madam:

Please let this letter serve as our request for an appeal to the recent **Decision on Appeal** for Colorado City Unified School District 14. We respectfully request the FCC to Review the decision given by USAC. In our appeal to USAC we were notified that Darcomm Network Solutions was improperly involved in the competitive bidding process. We were unable to properly appeal the decision simply because we were unaware of the reason USAC denied all FRN's Relating to Darcomm Network Solutions. We are now appealing the decision of USAC to the FCC because Darcomm Network Solutions was not improperly involved in the competitive bidding process. We have adhered to all state and local procurement rules while selecting Darcomm Network Solutions as a service provider.

Form 471 Application Number:	433137, 432989
Billed Entity Number:	143153
FRN Number:	1205932, 1205362, 1205283, 1205258, 1205180
Service Provider SPIN:	143005093
Funding request amount:	\$162,000, \$81,181.69, \$165,836.64, \$47,210.28, \$81,579
School Contact information:	Paul A Timpson
Phone Number:	(928) 875-9021
Fax Number:	(928) 875-9099
Address:	325 N Cottonwood St. Colorado City, AZ 86021
Email:	<u>erate@ccusd.net</u>

Please reference the attached document:

Administrative Decision on Appeal – Funding Year 2004-2005

Date: 11/16/2005

Statement of Truth.

Vendor Selection Committee: Jeffery Jessop, Oliver Barlow, Lee Bistline, Dennis Darger

Richard Moore of Darcomm was added to the Technology Plan of 04-07 only because his company was selected for an E-rate Project of FY2003. This was done to give credibility to the Technology Plan for the ED Tech project that we were seeking, and was listed simply as a Technology Provider. As for the Vendor Selection Process for E-rate FY2004 the statement of the Technology committee serving as the vendor selection was to correspond to the notes of the vendor selection process we were reviewing at the time. The Technology Committee referenced on the Vendor selection process document was not intended to reference the LEA Technology Committee for the Technology Plan. The LEA Technology committee referenced for vendor selection only consisted of the four people listed above, ie: Jeffery Jessop, Oliver Barlow, Lee Bistline, and Dennis Darger. We were well aware that the vendors could not participate in the competitive bidding process.*

Notes created at the time of the bid opening were labeled as Tech Meeting. See Notes 1 Attached and Sign In Sheet on Notes 2 Attached.

Lee Bistline
Lee Bistline

1/13/06
Date

* During the FY2003 Darcomm Network Solutions was selected in an intense competitive bidding process. In this year the district had 5 Vendors respond to the Districts 470. All vendors drove or flew 400 miles one way to visit our site and review our current technology and our needs. In the FY2004 application we had almost no responses yet we had done nothing different from the previous year. Having used this contractor in the past, and having found them to be fair in their pricing and reliable in their service delivery, they were selected to complete the projects referenced in this appeal.

We respectfully request the FCC review our request.
You can reach me by email at erate@ccusd.net or by phone at 928-875-9021.

Sincerely,

Paul A. Timpson
Paul A Timpson
E-rate Manager

1-13-06
Date

Attached "Administrator's Decision on Appeal – Funding Year 2004-2005 (2 Letters) 6 pages"
Attached "Vendor Selection Process 6 pages"



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005

November 16, 2005

Dennis Darger
Colorado City Unified School District No. 14
50 North Colvin Street
P.O. Box 309
Colorado City, AZ 86021-0309

Re: Applicant Name: COLORADO CITY UNIF SCH DIST 14
Billed Entity Number: 143153
Form 471 Application Number: 433137
Funding Request Number(s): 1205932
Your Correspondence Dated: August 10, 2005

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2004 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1205932
Decision on Appeal: **Denied**
Explanation:

- On appeal, you counter the SLD's decision of denying all Darcomm funding requests due to the improper service provider involvement in the competitive bidding process. You assert that Darcomm Network Solutions was not involved improperly in your competitive bidding process. You state that they own two State Contracts as purchasing vehicles for the equipment you sought and that they are willing to work with the District and consistently responded to your requests for information and on-site appearance. You also state that lowest cost was the primary factor in the selection of service providers, and since there was no other vendors responded to the 470, Darcomm was selected to complete the projects. You further state that you have made every effort to fairly and properly participating in the E-rate program, and should not be penalized or denied due to

technicalities. In closing the appeal, you respectfully request that the funding decision be reconsidered.

- Upon thorough review of the appeal letter, the relevant facts and documentation, it was determined that the service provider was improperly involved in the competitive bidding process. During the selective review, you provided a response on the vendor selection process dated February 19, 2005, which states that "the Technology Committee served as the Vendor Selection committee for all bids and gave recommendations to the District Governing Board, who made final decisions on all selected vendors." In the same response, Richard Moore of Darcomm Technologies is listed as a member of the Technology Committee. Additionally, several bids, quotes and correspondence were provided by Richard Moore on behalf of Darcomm. The SLD supports the denial of all Darcomm FRNs (SPIN 143005093) for service provider involvement in the vendor selection process. You failed to provide evidence that the SLD has erred in its decision. It is ultimately the applicant's responsibility to ensure their application be in compliance with the FCC rules.
- FCC rules require applicants to submit an FCC Form 470 to USAC for posting on its web site. 47 C.F.R. § 54.504(b). The FCC requires applicants to "submit a complete description of the services they seek so that it may be posted for competing service providers to evaluate." Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157, ¶ 570 (rel. May 8, 1997) (*Universal Service Order*). The FCC requires "the application to describe the services that the schools and libraries seek to purchase in sufficient detail to enable potential providers to formulate bids." *Id.* ¶ 575. The Form 470 warns applicants that "[s]ervice provider involvement with the preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests." *See* Schools and Libraries Universal Service, Description of Services Requested and Certification Form 470, OMB 3060-0806 (*FCC Form 470*). Once the applicant enters into an agreement(s) with the service provider(s), the applicant submits an FCC Form 471 to SLD. 47 C.F.R. § 54.504(c). The FCC has stated that applicants cannot abdicate control over the application process to a service provider that is associated with the FCC Form 471 for that applicant. Request for Review by Bethlehem Temple Christian School, *Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45, 97-21, DA-01-852 ¶ 6 (rel. Apr. 6, 2001).
- Pursuant to its authority to administer the Schools and Libraries Support Mechanism, SLD selects certain applicants for a Selective Review to ensure that they are following FCC rules relating to, among other things, the competitive bidding process. Applicants who are chosen for this review are sent the "E-Rate Selective Review Information Request." As part of this request, applicants are asked to answer certain questions regarding their competitive bidding and vendor selection process. In particular, applicants are asked to:

Please provide complete documentation indicating how and why you selected the service provider(s). This documentation should include a

description of your evaluation process and the factors you used to determine the winning contract(s).

- According to the Selective Review Information Request, the person authorized by the applicant to sign on the applicant's behalf, or the entity's authorized representative, is required to certify that the authorized signer prepared the responses to the Selective Review Information Request on behalf of the entity.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005

November 16, 2005

Dennis Darger
Colorado City Unified School District No. 14
50 North Colvin Street
P.O. Box 309
Colorado City, AZ 86021-0309

Re: Applicant Name: COLORADO CITY UNIF SCH DIST 14
Billed Entity Number: 143153
Form 471 Application Number: 432989
Funding Request Number(s): 1205180, 1205258, 1205283, 1205362
Your Correspondence Dated: August 10, 2005

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2004 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1205180, 1205258, 1205283, 1205362
Decision on Appeal: **Denied**
Explanation:

- On appeal, you counter the SLD's decision of denying all Darcomm funding requests due to the improper service provider involvement in the competitive bidding process. You assert that Darcomm Network Solutions was not involved improperly in your competitive bidding process. You state that they own two State Contracts as purchasing vehicles for the equipment you sought and that they are willing to work with the District and consistently responded to your requests for information and on-site appearance. You also state that lowest cost was the primary factor in the selection of service providers, and since there was no other vendors responded to the 470, Darcomm was selected to complete the projects. You further state that you have made every effort to fairly and properly participating in the E-rate program, and should not be penalized or denied due to

technicalities. In closing the appeal, you respectfully request that the funding decision be reconsidered.

- Upon thorough review of the appeal letter, the relevant facts and documentation, it was determined that the service provider was improperly involved in the competitive bidding process. During the selective review, you provided a response on the vendor selection process dated February 19, 2005, which states that "the Technology Committee served as the Vendor Selection committee for all bids and gave recommendations to the District Governing Board, who made final decisions on all selected vendors." In the same response, Richard Moore of Darcomm Technologies is listed as a member of the Technology Committee. Additionally, several bids, quotes and correspondence were provided by Richard Moore on behalf of Darcomm. The SLD supports the denial of all Darcomm FRNs (SPIN 143005093) for service provider involvement in the vendor selection process. You failed to provide evidence that the SLD has erred in its decision. It is ultimately the applicant's responsibility to ensure their application be in compliance with the FCC rules.
- FCC rules require applicants to submit an FCC Form 470 to USAC for posting on its web site. 47 C.F.R. § 54.504(b). The FCC requires applicants to "submit a complete description of the services they seek so that it may be posted for competing service providers to evaluate." Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157, ¶ 570 (rel. May 8, 1997) (*Universal Service Order*). The FCC requires "the application to describe the services that the schools and libraries seek to purchase in sufficient detail to enable potential providers to formulate bids." *Id.* ¶ 575. The Form 470 warns applicants that "[s]ervice provider involvement with the preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests." *See* Schools and Libraries Universal Service, Description of Services Requested and Certification Form 470, OMB 3060-0806 (*FCC Form 470*). Once the applicant enters into an agreement(s) with the service provider(s), the applicant submits an FCC Form 471 to SLD. 47 C.F.R. § 54.504(c). The FCC has stated that applicants cannot abdicate control over the application process to a service provider that is associated with the FCC Form 471 for that applicant. Request for Review by Bethlehem Temple Christian School, *Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45, 97-21, DA-01-852 ¶ 6 (rel. Apr. 6, 2001).
- Pursuant to its authority to administer the Schools and Libraries Support Mechanism, SLD selects certain applicants for a Selective Review to ensure that they are following FCC rules relating to, among other things, the competitive bidding process. Applicants who are chosen for this review are sent the "E-Rate Selective Review Information Request." As part of this request, applicants are asked to answer certain questions regarding their competitive bidding and vendor selection process. In particular, applicants are asked to:

Please provide complete documentation indicating how and why you selected the service provider(s). This documentation should include a

description of your evaluation process and the factors you used to determine the winning contract(s).

- According to the Selective Review Information Request, the person authorized by the applicant to sign on the applicant's behalf, or the entity's authorized representative, is required to certify that the authorized signer prepared the responses to the Selective Review Information Request on behalf of the entity.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

Vendor Selection Process

The Technology Committee served as the Vendor Selection Committee for all Bids, and gave recommendations to the District Governing Board, who made final decisions on all selected vendors.

- a) We, the Vendor Selection Committee, didn't receive any response on our Form 470 that was relevant to Internal Connections, or our published RFP's. We did receive untimely RFP responses for Sprint, and two very untimely responses from UCG Link – June 22, and TKS, Inc. – February 19 (FRN 1204563). We also received an untimely response from Nextel (FRN 1203135). We received no responses on our Form 470 for (FRN 1205043, 1205180, 1205258, 1205283, 1205362, 1205932, 1205975). The District is an extremely isolated district, separated from the rest of the state by the Grand Canyon. For most vendors, this entails a 415 mile one-way drive to provide services. Possibly the reason for lack of Vendor response. For example: Sprint sent their RFP Response from Phoenix, AZ on January 28 "Next Day Delivery. We did not receive the package on the 29th, and the package was not here on the afternoon of the 30th for the bid opening. The package was received February 2nd.
- b) Due to the lack of Form 470 and RFP responses, we turned to the Arizona State Master Contracts. In our vendor selection, we compared rates of various vendors who we thought would provide quality hardware and services. As we looked at the rates of the various vendors, we not only chose vendors where price was the primary factor, but vendors who we had a working knowledge of their ability to perform in a timely manner, and do so at a considerable driving distance.
 - i) Evaluation was based as cost being the primary factor, second was previous experience, and third was quality of workmanship.
 - ii) Price was determined by creating comparative worksheets. See (Worksheet 1) – Information on this worksheet was obtained by calling vendors and requesting their State Contract Long Distance rates. We selected our vendor as described in our Tech Meeting notes. See Notes 1. (Worksheet 2) – The comparative pricing on the worksheet is based on individual line items the District was likely to use. Quantities were added to line items representing numbers the District might use. A decision was made as described in Tech Meeting notes. See Notes 1. (Worksheet 3) - Based on published discount pricing for State and Mohave Contracts, discount percentages were compared, as well as labor rates. Decision made as described in Tech Meeting notes. See Notes 1. (File B – Doc 3) – Novell products were purchased directly from Novell as based on our SLA Contract. We renewed this contract is August of 2003. This contract is automatically renewed each year. The decision to purchase through

SLA is based on lowest price available. See Tech Meeting notes. See Notes 1. Reviewed all available cellular carriers with appropriate coverage area. Made decision based on price, features, and coverage. See Tech Meeting notes. See Notes 1.

- iii) See Notes 1, and Notes 2.
- c) Price was the Primary Factor, but also previous experience, and quality of workmanship and/or service.

Notes: 1

2/2/04

Tech Meeting

Attending - Jeffery, Oliver, Lee, Dennis

Discussed Vendor pricing worksheets. The committee determined that Global Crossing was a little better choice than Qwest because of the low interstate rate, and the password "number accountability" configuration that is already in place.

Cabling

Reviewing Cabling Worksheet. Aspen - lowest price. However committee chose Federal Communications Group because price appeared to be in line, we have used them in the past, and are very pleased with their work. Also the Vendor Federal is using for their racks, jacks, and cabling are high quality.

Networking

In reviewing state discounts, Darcomm is the obvious choice for our Network integrator. They ~~are~~ are also Cisco Gold Partners. We used this Vendor in the past, and they have been workable, and prompt.

Novell

Novell is sole source for SLA Agreement. Also, only about \$1,000.00.

Lech - P. 2

Cellular

Two cellular vendors have local coverage. Nextel & South Central. The committee chose Nextel for the direct connect feature - Keep So. Central because of local number issue. Verizon had best coverage for Arizona.

Internet

Received an untimely response from Sprint for Internet RFP. Committee decided on Sprint because they were the only RFP Internet response & we knew they could provide a circuit. - Phil Peterson w/ Arrow Point requested the RFP, but later called back and said he could not provide a circuit at our location.

Notes 2

1/20/04
4:00 p.m.

Bid Opening

Present:

Jeffery, Oliver, Dennis, Lee

Jeffery said he had not received any RFP responses. Dennis said Sprint said they were sending one, and Doug Campbell w/ nextel said they were working on theirs, and Oliver said most of these are available on state contract. The committee decided that Dennis should get on the phone and pursue quotes.

Meeting adjourned at 4:00 p.m.

1/30/04 Bid Opening

Tech Committee Sign-In

Dennis Darger

Edna Paulson

Lee Bistline